

## CASE SUMMARY

### INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	<u>Kersey v. County of Los Angeles</u>
CASE NUMBER	MC017214
COURT	Los Angeles County Superior Court (Lancaster)
DATED FILED	04/13/2006
COUNTY DEPARTMENT	Department of Public Works
PROPOSED SETTLEMENT AMOUNT	\$249,999.99
ATTORNEY FOR PLAINTIFF	John Bisnar, Esq. Bisnar and Chase (949) 752-2999
DEFENSE COUNSEL ATTORNEY	Doug Fee, Esq. Collins, Collins, Muir and Stewart (626) 243-1100
NATURE OF CASE	<p>This is a dangerous condition of public property lawsuit brought by Clarence and Mary Kersey, who seek damages for the death of their son, Kevin Kersey, who sustained fatal injuries in an automobile accident which occurred on May 20, 2005. Michael McKell is also a plaintiff in this lawsuit, and he seeks damages for personal injuries he sustained in the accident. The accident occurred on Sierra Highway .3 mile north of its intersection with Ave D in the Antelope Valley. This location is in unincorporated County territory near the Kern County border. Decedent Kevin Kersey, 19 years of age, was driving his Nissan Sentra northbound on Sierra Highway. At this location, Sierra Highway has one lane of travel for northbound and southbound traffic, with a transition lane for</p>

northbound traffic in and around the intersection with Ave D. The accident occurred when Kevin Kersey was in the process of passing a semi-truck and was unable to complete the maneuver in the passing lane when he ran off the pavement and drove onto the dirt shoulder. He lost control, and the vehicle overturned. His nephew, Michael McKell, 10 years of age, was a passenger in the vehicle and sustained personal injuries. Kevin Kersey was pronounced dead at the scene by Los Angeles County Fire Department paramedics. Michael McKell was treated by paramedics then flown to Children's Hospital of Los Angeles for treatment of a fractured right wrist, cuts and abrasions.

Plaintiffs claim that the roadway was in a dangerous condition and that the condition was a cause of the accident. Specifically, they allege that the transition lane ended without warning signs or pavement markings and further complain that the length of the transition lane is inadequate for roadway conditions.

This case was mediated twice, on March 14, 2007, and again on December 19, 2007. The proposed settlement is the result of the December mediation. Due to the risks and uncertainties of the litigation, the Department of Public Works, Carl Warren and Company, County Counsel and the County's defense counsel recommend acceptance of the settlement in the amount of \$249,999.99

PAID ATTORNEY FEES, TO DATE	\$76,398
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PAID, COSTS, TO DATE	\$19,100
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## Summary Corrective Action Plan

County of Los Angeles Department of Public Works



The intent of this form is to assist departments in writing a corrective action plan summary for attachment to the settlement documents developed for the Board of Supervisors and/or the County of Los Angeles Claims Board. The summary should be a specific overview of the claims/lawsuits' identified root causes and corrective actions (status, time frame, and responsible party). This summary does not replace the Corrective Action Plan form. If there is a question related to confidentiality, please consult County Counsel.

Lawsuit:	Kersey
Date of incident/event:	May 20, 2005
Briefly provide a description of the incident/event:	<p>Kevin Kersey 19 years old on the date of the incident, and his nephew Michael McKell age 10, were traveling in a 1988 Datsun Sentra. Kersey was driving them from Lancaster to Kern County on Sierra Highway at approximately 3:15 PM. While approaching Avenue D, Kersey attempted to pass a passenger vehicle and a tractor trailer on the right using a transitional second northbound lane.</p> <p>Prior to completely passing the tractor trailer, the transitional lane ended resulting in him driving onto the dirt shoulder where he lost control of his vehicle. The Sentra came back onto the roadway in front of the tractor trailer, but then went back off the roadway and overturned.</p>

1. Briefly describe the root cause of the claim/lawsuit:

- 1) Kersey's failure to judge both speed and distance led him into committing to a ill-advised passing maneuver.
- 2) Presence of a transitional right lane.

County of Los Angeles Department of Public Works  
Summary Corrective Action Plan

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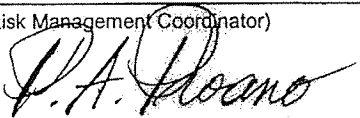
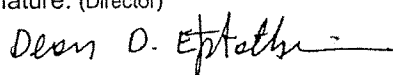
2. Briefly describe recommended corrective actions:  
(Include each corrective action, due date, responsible party, and any disciplinary actions if appropriate)

- 1) In October 2006 Public Works removed the transitional right northbound lane.

2) In December 2007, Public Works completed a reconstruction project, which included the resurfacing of the roadway at the incident location. The location no longer has the right northbound lane and includes edge line striping on the east and west sides of the roadway along with other enhancements.

3. State if the corrective actions are applicable to only your department or other County departments:  
(If unsure, please contact the Chief Executive Office Risk Management Branch for assistance)

- ☐ Potentially has County-wide implications.
- ☐ Potentially has implications to other departments (i.e., all human services, all safety departments, or one or more other departments).
- ☒ Does not appear to have County-wide or other department implications.

Signature: (Risk Management Coordinator)  Pat Proano	Date: 3/13/08
Signature: (Director)  Dean E. Efstathiou (Acting Director)	Date: 3/20/08

**DEPARTMENT OF PUBLIC WORKS  
CORRECTIVE ACTION PLAN**

**LAWSUIT OF:** Clarence Kersey et al.

**INCIDENT DATE:** May 20, 2005

**INCIDENT LOCATION:** Sierra Highway, 0.3 mi north of Avenue D  
Unincorporated County

**RISK ISSUE:**

Alleged dangerous condition of the roadway due the failure of Public Works to provide adequate design and warnings which created a trap condition. The County is liable for the dangerous condition of its property due to inadequate design and lack of appropriate signage.

**INVESTIGATIVE REVIEW:**

Sierra Highway is a two-lane north-south rural road with one travel lane in each direction. On Sierra Highway there is a painted median at the intersection of Avenue D extending from the intersection 550 feet north and 480 feet south. For northbound travel the painted median terminates in a left turn pocket for travel onto Avenue D. At approximately 700 feet south of Avenue D begins a second northbound lane. The two northbound lanes are separated by a single dashed white stripping and the two lanes continue to approximately 400 feet north of Avenue D where the stripping stops. At this point there is an additional 150 feet transition as the right lane transitions back to a single lane at the end of the painted median. There are no pavement markings or signage denoting the start or end of the right northbound lane.

Kevin Kersey 19 years old on the date of the incident, and his nephew Michael McKell age 10, were traveling in a 1988 Datsun Sentra. Kersey was driving them from Lancaster to Kern County on Sierra Highway at approximately 3:15 PM. While approaching Avenue D, Kersey attempted to pass two other vehicles on the right using the second northbound lane, first a passenger vehicle and second a tractor trailer. Kersey's failure to judge both speed and distance led him into committing to pass the tractor trailer resulting in him driving onto the dirt shoulder where he lost control of his vehicle. The Sentra came back onto the roadway in front of the tractor trailer, but then went back off the roadway and overturned. Kersey was wearing a shoulder belt but died at the scene. McKell suffered a broken wrist, cuts and abrasions and has since recovered from his injuries.

**POLICY ISSUES:**

At the time of the accident the incident area was part of a resurfacing project "Avenue E Et Al" RDC0013756. In March 2004 the original signing and striping plan for Sierra Highway and Avenue D was revised as part of the project. The revised plan called for enhanced signing and striping along the right northbound lane of Sierra Highway. The

## KERSEY - CORRECTIVE ACTION PLAN

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enhancements included the addition of lane reduction arrows at three locations in the right lane to notify motorists to merge into the left lane and the installation of a lane merging sign north of Avenue D and a "Lane Ends Merge Left" sign further north and prior to the end of the right lane. The project was delayed due to a change in the scope of work, whereby the project was reclassified from a resurfacing project to a reconstruction project. This resulted in a larger project and required further study.

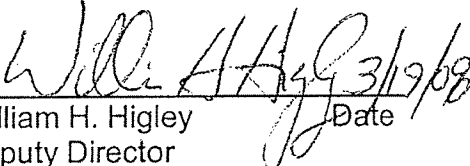
Following the subject incident (May 2005), an investigation was conducted and the March 2004 signing and striping plan was reevaluated. Removal of the rightmost northbound lane was recommended along with alternate signing, striping and pavement marking provisions on Sierra Highway at Avenue D. This plan was finalized in August 2006 and approved in September 2006. The revised plan called for the removal of the rightmost northbound lane on Sierra Highway between 410 feet north of Avenue D to 680 feet south of Avenue D. The plan was implemented in October 2006.

With the Reconstruction Project (RDC0013756) moving forward the signing and striping plan was again revised. The new plan dated December 2006 called for additional enhancements to the striping and pavement markings at the intersection of Sierra Highway and Avenue D including edge line striping along the east and west sides of Sierra Highway as well as enhancements to the north and south approaches of Sierra Highway, as well as the west approach of Avenue D. The project was completed in December 2007.

### CORRECTIVE ACTION:

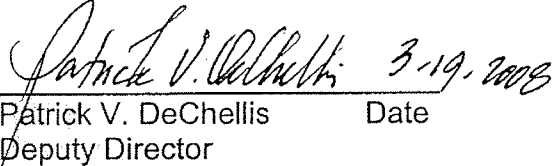
1. In October 2006 Public Works removed the right northbound lane of Sierra Highway between 680 feet south of Avenue D and 410 feet north of Avenue D.
2. In December 2007, Public Works completed Reconstruction Project, "Avenue E Et Al" RDC0013756", which included the resurfacing of Sierra Highway at the incident location. The location no longer has the right northbound lane and includes edge line striping on the east and west sides of Sierra Highway along with other enhancements.

Reviewed & Recommended

  
William H. Higley  
Deputy Director

Date

Approved

  
Patrick V. DeChellis  
Deputy Director

Date